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2007 WL 2019785 (Miss.A.G.)

Office of the Attorney General
State of Mississippi

Opinion No. 2007-00232
May 25, 2007

Re: Board's Authority to Hire Attorney for Sheriff's Department

Joseph R. Meadows
Meadows Riley Law Firm
P.O. Drawer 550
Gulfport, MS 39502

Dear Mr. Meadows:

Attorney General Jim Hood has received your opinion request and has assigned it to me for research and reply. You ask the following question on behalf of the Board of Supervisors of Harrison County:

As attorney for the Harrison County Board of Supervisors, I have been directed to write your office with regard to the Board's authority to employ a full-time attorney to represent the Harrison County Sheriff's Department. Over the past several years, the County has incurred over \$1.5 million in legal fees defending litigation against the Harrison County Sheriff's Department. In the Board's opinion, a full-time attorney for the Sheriff's Department would greatly reduce legal fees. Obviously, there would be litigation which would require services of an outside attorney. However, a full-time attorney could address most of the day to day legal needs of the Sheriff's Office. Thank you for your response to the following question:

Does the Harrison County Board of Supervisors, absent the approval of the Sheriff, have the authority to employ a full-time attorney to represent the Harrison County Sheriff and his office?

In response, Section 19-3-47(b) allows a board of supervisors, in its discretion, to employ counsel in all civil cases in which the county is interested,... and to pay the counsel out of the county treasury or the road fund that may be involved reasonable compensation, or if counsel so employed is retained on an annual basis as provided in this subsection, reasonable additional compensation for his services. While this statute does allow the board to hire legal counsel to provide legal representation to the sheriff and/or his department, it does not give ~~←BEST~~ authority to hire legal counsel as an employee of the sheriff's department. Indeed, as this office has often stated, the sheriff has the ~~←exclusive~~ authority and ~~←control~~ over his employees, including hiring, firing, and disciplinary rules. See, MS AG Op., ~~←Farmer (February 6, 2004);~~ MS AG Op., Tolar (March 28, 2003).

~~BEST~~ ➔ Therefore, it is the opinion of this office that the board of supervisors does not have authority to hire an attorney as an employee of the sheriff.

If this office may be of further assistance to you, please let us know.

Sincerely,

Jim Hood
Attorney General

By: Ellen O'neal
Special Assistant Attorney General
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END OF DOCUMENT.

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